

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
WESTERN DIVISION**

<b>DAVID SMITH</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. 7:09-cv-08038-RDP-HGD</b>
	)	
<b>UNITED STATES OF AMERICA</b>	)	

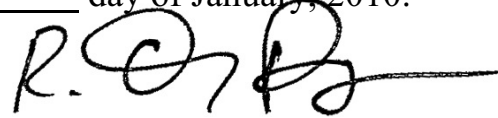
**ORDER**

On November 30, 2009, the magistrate judge's report and recommendation was entered and the parties were allowed therein eleven (11) days in which to file objections to the recommendations made by the magistrate judge. On December 10, 2009, Petitioner filed objections to the magistrate judge's report and recommendation.

After careful consideration of the record in this case, the magistrate judge's report and recommendation and Petitioner's objections thereto, the court hereby **ADOPTS** the report of the magistrate judge. The court further **ACCEPTS** the recommendations of the magistrate judge and it is therefore

**ORDERED, ADJUDGED and DECREED** that the Motion to Vacate, Set Aside or Correct Sentence, filed pursuant to 28 U.S.C. § 2255, is due to be and is hereby **DENIED** as untimely and this action **DISMISSED**. Petitioner's Motion for Emergency Hearing (Doc. #4) is **DENIED**.

**DONE** and **ORDERED** this 4th day of January, 2010.

A handwritten signature in black ink, appearing to read 'R. David Proctor', with a long horizontal stroke extending to the right.

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**R. DAVID PROCTOR**  
UNITED STATES DISTRICT JUDGE